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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,337	02/09/2004	Yoshiya Tomatsu	118595	8913
25944	7590	09/20/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			HOANG, TU BA	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/773,337	Applicant(s) TOMATSU, YOSHIYA	
	Examiner Tu Ba Hoang	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 49 and 50 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 24-31 and 50 is/are allowed.
- 6) ☒ Claim(s) 9-11, 13-17, 19, 20, 32-34, 36, 37, 39, 40, 42, 43 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 12, 18, 21-23, 35, 38, 41, 44, 48 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 06 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Response to Amendment/Argument***

Applicant's arguments/amendments filed August 04, 2005 have been fully considered but they are not persuasive as for the following reason:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11, 13-17, 19-20, 32-34, 36-37, 39-40, 42-43, and 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Yasuhiro et al (JP9-114317). Yasuhiro et al shows all features of the claimed invention including an image forming apparatus such as copy machine shown in Figure 4 which comprises a sheet feeding section 109 for feeding sheet 108, an image forming section 102, 103 which includes a thermal fixing device and inherently, at least a supporting unit or bearing for fixing rollers or members, wherein the fixing device comprises a fixing member 101, a pressing member 107, a heating unit 104, and a thermal cutoff unit 120 or 110 (also see Figures 1(a), 2(a)) which comprises a bimetal 3 or 113 that is deformed by heat and exposed toward the fixing member 101 to be in contact therewith without intermediary of air for cutting off the power supplied to the heating unit 104 and a housing 1, 2, 4 (as shown in Figures 1-2), the bimetal 3 or 113 further comprises a projection 6 or 116 to be in contact with the fixing member through a heat conductive member 5 having a high thermal conductivity which is in contact with the fixation area 4a of the fixing member 101, the housing also contains the heat conductive member 5 and a switch 8, 9, wherein the heat conductive member is also configured to become in non-contact with the fixing member when the fixing member is not overheated.

Claims 1-8, 24-31, and newly added claim 50 are allowed.

Claims 12, 18, 21-23, 35, 38, 41, 44, and 48-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or fairly suggest the use of a supporting unit for moving the fixing member when the fixing member is overheated (claims 1, 12, 18, 35, 41) in a combination with a thermal cutoff unit having a bimetal and a switch to be in contact with the fixing member for mechanically cutting off the power supplied to the fixing member heating unit as recited in claims 1 and 24 and wherein the supporting

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unit also comprises a bearing member which is softened by the overheat to allow a pressing member to move the fixing member (as recited in claims 21, 38, 44 and 50).

#### REMARK

In response to applicant's argument that the prior art (Yasuhiro JP'317) while fails to suggest the feature of a **bimetal** that is exposed toward a fixing member to be contacted therewith **without intermediary of air** discloses a thermostat structure including a heat receiving part 4a or 114a arranged to come into contact with or come close to the object being temperature controlled, and a bimetal 3 or 113 arranged to be opposed to the heat receiving part 4(a) and the **gap is filled with high heat conductive substance** 5 such as silicone grease to facilitate heat conduction across the gap.

The Examiner disagrees to the contra that as the gap is filled with silicone grease or substance 5 (as shown in Figures 2-3- and 5), it is clear that the bimetal 3 when deformed by heat is exposed toward the fixing member 101 (shown in figure 4) through the receiving part 4(a) to be in contact therewith without intermediary of air but instead with the conductive substance.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Ba Hoang whose telephone number is (571) 272-4780. The examiner can normally be reached on Mon-fri from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu Ba Hoang  
Primary Examiner  
Art Unit 3742

September 15, 2005